

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

THE GENERAL HOSPITAL
CORPORATION and
DANA-FARBER CANCER
INSTITUTE, INC.,

Plaintiffs,

v.

ESOTERIX GENETIC
LABORATORIES, LLC and
LABORATORY CORPORATION
OF AMERICA HOLDINGS,

Defendants.

C.A. No. 1:18-cv-11360-IT

**AFFIDAVIT OF CAROLYN A. MARCOTTE IN SUPPORT OF PLAINTIFFS' MOTION
FOR PARTIAL SUMMARY JUDGMENT**

I, Carolyn A. Marcotte, hereby swear and affirm as follows:

1. I am counsel with the law firm of Barclay Damon LLP, counsel to the plaintiffs The General Hospital Corporation and Dana-Farber Cancer Institute, Inc. in the above-captioned matter. I make this affidavit on personal knowledge, in support of the Plaintiffs' Motion for Partial Summary Judgment.
2. Attached hereto as Exhibit A is a true and accurate copy of excerpted pages from the Exclusive License Agreement dated May 2, 2005, and amendments thereto.¹
3. Attached hereto as Exhibit B is a true and accurate copy of the June 27, 2017 Settlement Agreement without exhibits thereto.

¹ Information has been redacted from certain of the Exhibits to this Affidavit pursuant to the Court's November 16, 2018 Order [Dkt. No. 91] granting the defendants' motion to impound [Dkt. No. 82]. The plaintiffs will submit an unredacted version under seal to the Court.

4. Attached hereto as Exhibit C is a true and accurate copy of a LabCorp report for Reporting Period January 1 – June 30, 2017 received by the plaintiffs in September 2017.
5. Attached hereto as Exhibit D is a true and accurate copy of a document regarding the amount in dispute.
6. Attached hereto as Exhibit E is a true and accurate copy of a letter dated November 3, 2017 from the plaintiffs to the defendants.

Signed under the penalties of perjury this 16th day of November, 2018.

/s/ Carolyn A. Marcotte
Carolyn A. Marcotte

CERTIFICATE OF SERVICE

I, Carolyn A. Marcotte, counsel for the plaintiffs in the above-captioned matter, certify that on November 16, 2018, the foregoing Affidavit filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent to the non-registered participants.

/s/ Carolyn A. Marcotte
Carolyn A. Marcotte